

RIZZO & DIERSEN, S.C.

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July 24, 2015

Hon. Pamela Pepper, District Judge
United States District Court for the
Eastern District of Wisconsin
517 East Wisconsin Avenue
Room 362
Milwaukee, Wisconsin 53202

Case Name: *Estate of Rylan Aislee Koopmeiners, et al*
v. Sarah Gumm, et al
Case No.: 14-CV-1115-JPS

Dear Judge Pepper:

As a follow up to your request at the Status conference of July 16, 2015, herewith are my communications with the Department of the Navy, and with Douglas Poland and Patricia Wheeler regarding the same:

- 1) Attached as **Exhibit A** are several email exchanges between myself and Attorney Doug Poland and his co-counsel, Patricia Wheeler, discussing the Department of Defense discovery. Please note that in the email dated March 30, 2015, Doug Poland states:

"Thanks, Gail. I inquired with our legal assistant who is handling the subpoena. I had it wrong; I thought we had served it, but we haven't. She is still in the process of tracking down the appropriate office to serve. We will provide you with a Notice of Subpoena when we confirm where they are to be served."

- 2) In response to the Court's request for an update on the status of the attempt to obtain relevant information from the computers used by Reggan Koopmeiners while she was employed as a contractor to the Department of the Navy, the parties report that because of a miscommunication, a request has not yet been submitted to the Department of the Navy. The parties are working together to immediately

Kenosha, WI Racine, WI Burlington, WI Lake Geneva, WI Madison, WI Oak Brook, IL

submit a request to the Department of the Navy.

If you have any questions or concerns, please do not
hesitate to contact my office.

Very truly yours,

s/ Gail C. Groy

Gail C. Groy
W. Erich Scherr

cc:

Douglas M. Poland (via ECF)
Jed Stone (via ECF)
Erin A. West (via ECF)

Estate of Rylan Aislee Koopmeiners et al v. Gumm et al
Case: 14CV1115
EXHIBIT A

1. March 30-31, 2015, correspondence between Gail Groy, Douglas Poland, and Patricia Wheeler Re: Service of Subpoena (3 pages)
2. March 30, 2015, email to Douglas Poland from Gail Groy Re: Dept. Of Navy instructions and contact persons in the Navy (2 pages)
3. March 27, 2015, email correspondence between Special Counsel for Litigation Barry Plunket and Gail Groy Re: Instructions for release of official Dept. Of the Navy information (2 pages)
4. March 17-23, 2015, email correspondence between Patricia Wheeler, Erich Scherr, Robert Kennedy, and Gail Groy Re: Draft Confirmation Notes of Meet and confer - March 4, 2015; See No. 3 regarding Navy litigation office (4 pages)



Gail C. Groy

From: Gail C. Groy
Sent: Tuesday, March 31, 2015 11:40 PM
To: Cru Stublely
Subject: Re: TOUHY REQUEST [GK-Active.FID2154967]

Yes got it Thx

Sent from my iPhone

On Mar 31, 2015, at 10:05 AM, Cru Stublely <ccs@rizzolaw.com> wrote:

Gail,

I just wanted to make sure that you saw this Email from Doug Poland that they have not served their subpoena yet.

Cru Stublely
Rizzo & Diersen, S.C.
600 W. Verona Ave
Verona, WI 53593
(608)709-5565

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From: Poland, Douglas [<mailto:DPoland@gklaw.com>]
Sent: Monday, March 30, 2015 4:41 PM
To: Gail C. Groy; Wheeler, Patricia
Cc: 'escherr@scherr-law.com'; Cru Stublely; Jed Stone (jstone@jedstone.com)
Subject: RE: TOUHY REQUEST [GK-Active.FID2154967]

Thanks, Gail. I inquired with our legal assistant who is handling the subpoena. I had it wrong; I thought we had served it, but we haven't. She is still in the process of tracking down the appropriate office to serve. We will provide you with a Notice of Subpoena when we confirm where they are to be served.

Doug

Douglas Poland
Attorney

Godfrey & Kahn, S.C.
One East Main Street, Suite 500
Madison, Wisconsin 53703
TEL * 608.257.3911
DIR * 608.284.2625
FAX * 608.257.0609
EMAIL * dpoland@gklaw.com
[WWW * GKLAW.COM](http://WWW.GKLAW.COM)

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Please consider the environment before printing this e-mail

-----Original Message-----

From: Gail C. Groy [<mailto:gcg@rizzolaw.com>]
Sent: Monday, March 30, 2015 11:20 AM
To: Poland, Douglas; Wheeler, Patricia
Cc: 'escherr@scherr-law.com'; Cru Stublely
Subject: FW: TOUHY REQUEST

Counsel - In accordance with your discovery requests regarding imaging of the computer devices and our meet and confer, I am forwarding the information that I received and the contact details from the Navy.

Please forward to me a copy of the Subpoena that you set to the Navy that you discussed today at the Satus conference,

Thanks,

Gail C. Groy
Rizzo & Diersen, S.C.
600 W. Verona Ave
Verona, WI 53593
(608)709-5565

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market, or recommend to another party any tax-related idea.

-----Original Message-----

From: Plunkett, Barry SES OGC, NLO [<mailto:barry.plunkett@navy.mil>]

Sent: Friday, March 27, 2015 11:25 AM

To: Gail C. Groy

Subject: TOUHY REQUEST

Counselor,

Attached is the Secretary of the Navy Instruction pertaining to the release of official Department of the Navy information. Note enclosure (4), which provides the contents of a proper request. When you've ascertained what you need and have the request prepared, please forward it to timothy.cothrel@navy.mil. He can also be reached at 202-685-6938.

Regards,

B. J. Plunkett III
Special Counsel for Litigation
Department of the Navy

202-685-6985 (work)
410-804-0224 (cell)
202-685-7036 (fax)

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This email has been scanned for email related threats and delivered safely by Mimecast.
For more information please visit <http://www.mimecast.com>

Gail C. Groy

From: Gail C. Groy
Sent: Monday, March 30, 2015 11:20 AM
To: 'dpoland@gklaw.com'; 'pwheeler@gklaw.com'
Cc: 'escherr@scherr-law.com'; Cru Stublely
Subject: FW: TOUHY REQUEST
Attachments: SECNAVISNT 5820.8A.pdf

Counsel - In accordance with your discovery requests regarding imaging of the computer devices and our meet and confer, I am forwarding the information that I received and the contact details from the Navy.

Please forward to me a copy of the Subpoena that you set to the Navy that you discussed today at the Satus conference,

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Gail C. Groy

From: Gail C. Groy
Sent: Friday, March 27, 2015 1:15 PM
To: 'Plunkett, Barry SES OGC, NLO'
Subject: RE: TOUHY REQUEST

Dear Attorney Plunkett, I received the attachment and much thanks for your assistance, Regards, Gail C Groy

Gail C. Groy
Rizzo & Diersen, S.C.
600 W. Verona Ave
Verona, WI 53593
(608)709-5565

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From: Plunkett, Barry SES OGC, NLO [<mailto:barry.plunkett@navy.mil>]
Sent: Friday, March 27, 2015 11:25 AM
To: Gail C. Groy
Subject: TOUHY REQUEST

Counselor,

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Regards,

B. J. Plunkett III
Special Counsel for Litigation
Department of the Navy

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Gail C. Groy

From: Gail C. Groy
Sent: Monday, March 23, 2015 11:27 AM
To: 'Wheeler, Patricia'; 'escherr@scherr-law.com'; Robert Kennedy
Cc: 'Poland, Douglas'; 'Schwartz, Jacqueline'; Cru Stubley
Subject: RE: Koopmeiners v. Gumm, et al. [GK-Active:FID2154967]

Draft Confirmation Notes of Meet and Confer – March 4, 2015

- 1) **Cellular records from June 1 to June 12** – Plaintiffs have requested the same since the meet and confer and will forward upon receipt shortly.
- 2) **Shared networking** - - Nathan's facebook account regarding reference's to Sarah Gumm and CARE.COM from June 2011 to December 2012 – Plaintiffs are contacting facebook and we will supplement discovery upon receipt – The defendants resolved their access to Reggan's Twitter account.
- 3) **Stipulation for a Protective order:** **The Plaintiff's are not disagreeable to the protective order** - We are having the experts review the confidentiality agreement and discussing with our clients and then we anticipate a response to you very shortly.

It is the Plaintiff's understanding that once the protective order is agreed that Care.com will forward the outstanding discovery replies and documents that it claims under the protective order. **The Defendants were to produce an itemization of those items they claim under the protective order.**

- 4) **List of Documents Requested from Care.com:** *"When we met on March 4 at the Godfrey & Kahn offices to discuss discovery issues, we agreed that you would circulate a draft list of documents you were seeking from Care.com that had not yet been produced to you. We would then have the opportunity to suggest edits to the list. Once we both had agreed on the list, we would then memorialize it into a more formal request. We ask that you provide us with the list of documents you believe we agreed upon in that March 4 meeting"*

Plaintiff identified those documents as:

1. Documents relating to the background check on Sarah Gumm and the records of when and to whom she provide those background checks;
2. Reports and records as well as the operating handbook/procedures regarding the background Check of Sarah Gumm;
3. Reports and records as well as the operating handbook/procedures regarding the Verification Check of Sarah Gumm;
4. Care.com is providing a list of items they claim under the protective order;
5. Relating to background and verification checks on GUMM the PII information;
6. Relating to background checks and verification checks on GUMM the internal operating manuals, notes, memos, reports and names of those involved;
7. The information and reports of when Sarah GUMM logged in/out to the CARE.com website;
8. The information and reports of when Reggan Koopmeiners logged in/out to the CARE.com website;

9. Information that CARE.com provided to Sterling Infosystems on Sarah Gumm and anything back from Infosystems to CARE.com;
 10. Contract and any supporting documents between Sterling Infosystems and Care.com relating to background checks and verification checks;
 11. The handbook of the procedures and operations used to carry out background and verification checks relating to Sterling Infosystems for Care.com relating to GUMM;
 12. The terms and conditions for the Care.com website as of when Reggan signed up as a member;
 13. *The on line forms for the verification check and background check and the information that was received from GUMM and that the Plaintiffs are requesting is stored as meta data - Defendants are to confirm if these items on background checks and verification checks can be downloaded as a template for hard copies to be produced or whether the same need to be imaged;*
 14. The Defendants were to confirm what was included in the background check down on GUMM;
 15. The defendants to provide records and logs of those people that requested a check on GUMM – this was requested in the Plaintiff interrogatories and Defendants stated this information would be released once the protective order was entered.
- 5) **Forensic analyses of the Koopmeiners' personal computer and cell phones:** *"We would like to reach an agreement that our two experts may consult with one another on the logistics of imaging and sharing the images of the computer and the two cell phones. We would propose that your expert perform the imaging, and provide a copy of the imaged hard drive and phones to our expert, Mark Lanterman. " Plaintiff expert, Matt Stippich of Digital Intelligence, Inc. is willing to do the imaging – he will speak to your expert regarding search terms (Defendants to provide the CV); however, Plaintiffs counsel are seeking a general counsel of the Navy litigation office in order to resolve the confidentiality agreements that exist with their clients devices and will forward those details once ascertained shortly.*

- 6) **Verification Check –** Defendants to provide the records log in/log out, the process log of activity and reports of the online form and the explanation of the keys as well as the information that Sarah Gumm provided to CARE.com .
- 7) **Background Check –** Defendants to provide the details of what Sarah Gumm provided to them, the process log of activity, the records log in/log out and the background check report they had on Sarah Gumm.
- 8) **Defendants to provide a privilege log and log of those items under the protective order to the Plaintiffs and the Defendants to confirm that the items under privilege log that they produce, the items under the protective order and those items already produced to the Plaintiffs form the entirety of what their clients hold relating to their defense and to this matter .**

Please feel free to add any items to this draft that you think may not have been covered and once finalized the same will be circulated although I reserve the right to update the same as ans when items become known or available.

Thanks,

Gail C. Groy
Rizzo & Diersen, S.C.
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From: Wheeler, Patricia [mailto:PWheeler@gklaw.com]
Sent: Tuesday, March 17, 2015 12:54 PM
To: Gail C. Groy; escherr@scherr-law.com; Robert Kennedy
Cc: Poland, Douglas; Schwartz, Jacqueline
Subject: Koopmeiners v. Gumm, et al. [GK-Active.FID2154967]

Gail,

With the goal of keeping the discovery in this case moving forward, we write to address three pending issues:

- 1) **Stipulation for a Protective order:** We interpret your March 11 email on the stipulation for a protective order to raise concerns about your ability to share "Confidential" documents with your clients and experts. As long as the Koopmeiners and your experts sign the acknowledgement (attached to the stipulation) agreeing to abide by the confidentiality provisions set forth in the agreement, you may share "Confidential" documents with them.
- 2) **List of Documents Requested from Care.com:** When we met on March 4 at the Godfrey & Kahn offices to discuss discovery issues, we agreed that you would circulate a draft list of documents you were seeking from Care.com that had not yet been produced to you. We would then have the opportunity to suggest edits to the list. Once we both had agreed on the list, we would then memorialize it into a more formal request. We ask that you provide us with the list of documents you believe we agreed upon in that March 4 meeting.
- 3) **Forensic analyses of the Koopmeiners' personal computer and cell phones:** We would like to reach an agreement that our two experts may consult with one another on the logistics of imaging and sharing the images of the computer and the two cell phones. We would propose that your expert perform the imaging, and provide a copy of the imaged hard drive and phones to our expert, Mark Lanterman.

Please let us know if you have any questions, and whether you agree to allowing our computer forensic experts to coordinate with one another.

Tricia

Patricia Wheeler
Attorney

GODFREY & KAHN^{SC}
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Madison, Wisconsin 53703
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